Xaiviar Brown
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Petitioner in Propria Persona

UNITED STATES DISTRIC COURT
ESTERN DISTRIC OF MISSOURI
EASTERN DISTRIC

UNITED STATES OF AMERICA

vs.

XAVIER BROWN
(Alleged Defendant)

in propria persona sui juris

Case No. 4:21CR259RLW/SRW

Notice of Conditional Acceptance of Counsel and potential lack of ability to proceed with "trial" without assistance of counsel

Please take notice that Petitioner ***Xaiviar Brown***, appearing specially in propria persona sui juris, after consultation with counsel, very much desires to invoke the right to (***effective*** ?) assistance of counsel, and will, for the record, make a ***conditional*** acceptance of counsel, as set forth below, ***reserving all rights secured by the Constitution for the united States {1787-1791} (CuS)*** in the process, ***carefully*** noting that the right, as applied in the instant case does ***NOT*** emanate from Section 1 of the ***NON***-existent 14th ***war*** "amendment", since the need is for counsel educated in ***constitutional law*** who can present Petitioner's multiple ***unopposed*** constitutional issues establishing the ***ABSENCE*** of jurisdiction of the trial 'court'.

Accordingly, the ***RIGHT*** is available pursuant to ***at least Article I, Section 9 or 10***, as the case may be, ***Article IV, Sections 1 thru 4, Article VI, Section 2*** of, and/or the ***9th Article of Amendment to, the CuS***.

Recently, however, ***extreme*** concern arises pursuant to the ability to present ***ANY meaningful*** and ***substantive*** defense with the summary, ex parte 12(b)(6) "denial" of an ***UNOPPOSED NON***-statutory ***federal*** Writ of Habeas Corpus by a trial 'judge' who "converted", and suspended, the Writ, on who knows ***WHAT*** provisions of the ***CuS***, to a 'state' statutory Writ, and cited the decision of the California supreme 'court' in "***People of the State of California" Mattson 51 Cal 2nd 777***, which contains several ***VERY troubling*** 'conclusions', viz:

> "We have concluded that the right to counsel does not include an absolute right to services of the character and capacity indicated; ***that the court should not appoint counsel to defend an indigent and require that in so doing the attorney surrender any of the substantial prerogatives traditionally or by statute attached to his office***; that a

> defendant for whom counsel is appointed should not be permitted both to have counsel and to actively participate in the conduct of the case unless the court in its discretion (?!? – ed) determines that in the circumstances of the case the cause of justice will thereby be served and that the orderly and expeditious conduct of the court's business will not thereby be substantially hindered, hampered or delayed; that under the circumstances of this case ***there was no error in refusing to appoint counsel to act in a subservient capacity*** (***WRONG***!! ***Attorney-Client*** relationship is, in the final analysis, a ***Principal*** and ***agent*** relationship, the simple proof of which is that most, if not ***ALL***, of ***victims*** of the "***Justice system***" who are ***NOT*** (!) ***artificial, corporate*** entities, are also lawful, de jure, ***jus sanguinis*** States Citizens /aka/ ***Beneficiaries*** of the Trust known as "The United States, whose ancestors ordained "***this Constitution***" and, indeed ***ALL*** government, to "secure the blessings of liberty to ourselves and ***OUR*** posterity", noting that attorneys are, for all apparent intents and purposes ***AGENTS*** of ***OUR*** government ***agents*** who 'created them !); and that for the reasons aforesaid and hereinafter developed the judgment of conviction should be affirmed."

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It continues:

"Defendant's Insistence upon Representing Himself and at the Same Time Being Afforded the Assistance of Counsel. On August 21, 1957, defendant appeared in the superior court for arraignment. Proceedings on this and subsequent days through the time of trial (September 25 and 26, 1957), quoted and summarized in the margin,[FN1] disclose the following situation: Defendant repeatedly refused to accept appointment of counsel to represent him and insisted upon representing himself. He asked and the court refused appointment of counsel to aid defendant in filing papers, preparing subpoenas, and obtaining documents. The court of its own motion gave defendant much legal advice. Defendant was (?!? – ed) mentally competent and alert and had some knowledge of law, but either did not understand or refused to recognize some rules of procedure, particularly rules of evidence. He clearly indicated that he did not wish to be represented by counsel ***because he correctly understood that if he were so represented counsel could control the presentation of the case[FN2] and defendant would have no right to participate actively in the conduct of the trial.***[FN3] (***WRONG***!! A ***MAJOR*** difference between the 14th ***war*** "amendment" 'right' and the ***Right*** secured by ***ALL 6 Articles of the Constitution*** !)No attempt of the prosecution to take improper advantage of defendant appears and (leaving aside for the moment the question of defendant's right to the aid of an attorney) the record discloses no unfairness in his trial and no miscarriage of justice in his conviction."

It continues unabated:

> "As has been stated (ante, footnote 3), despite the constitutional (art. I, s 13) and statutory (Pen.Code, s 686) provisions that defendant has the right to appear and defend in person and with counsel, ***defendant is not entitled to have his case presented in court***

> ***both by himself and by counsel acting at the same time or alternating at defendant's pleasure***. (People v. Northcott (1930), supra, 209 Cal. 639, 648-650(6), 651, 289 P. 634, 70 A.L.R. 806; People v. Mims (1958), 160 Cal.App.2d 589, 325 P.2d 234.) ***So long as defendant is represented by counsel at the trial, he has no right to be heard by himself*** (People v. McKinney (1957), supra, 152 Cal.App.2d 332, 336(6), 313 P.2d 163; People v. Glenn (1950), supra, 96 Cal.App.2d 859, 868, 216 P.2d 457); conversely, when defendant has ***intelligently*** (?!? – ed) declined the aid of counsel he has no right to interrupt the trial with a demand for legal assistance (In re Connor (1940), 16 Cal.2d 701, 709(8), 108 P.2d 10)". (again 14th ***war*** "amendment" counsel and Constitutional counsel – ed; and ***HOW*** can an Accused possibly make a "intelligent" waiver of ***ANY*** right, most particularly counsel, when he is ***PRESUMED*** "incompetent" from day ***ONE*** ??))

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> A fundamental reason for according to an accused the right to counsel is that without the aid of an attorney other protections which the law affords would often avail defendant little ***since it cannot be assumed that he is sufficiently articulate and adequately conversant with his constitutional and legal rights and his procedural duties to protect himself throughout the course of criminal proceedings***. (This due in whole, or large part, to the ***FACT*** that there are nothing ***remotely related*** to ***meaningful*** and ***substantive*** curricula in the ***mandatory*** public "education" system for the study of the Constitution, history and laws of the united States !).

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> "Common knowledge of judges and attorneys (and to some extent the transcript in the case at bar, as hereinafter pointed out) suggests ***that there are at least some persons who, although not members of the bar, undertake to act as their own attorney in presenting their cause or defense and who in so acting do not appear to feel bound to 'maintain the respect due to the courts of justice and judicial officers' (s 6068, subd. (b)) or to 'employ, for the purpose of maintaining the causes * * * such means only as are consistent with truth, and never to seek to mislead the judge * * * by an artifice or false statement of fact or law' ..."***

WRONG !! We are ***NOT*** "persons" within the meaning of Section 1 of the ***NON***-existent 14th ***war*** "amendment", we are ***NOT*** "acting as our own attorneys and we certainly do ***NOT*** have any reason to feel bound by a 'court' and/or 'judge', a law

school graduate who knew, or should have known, that he was and is acting ***coram non judice***, this from a "person" in an 'official' capacity of ***honor***, profit and ***trust*** in the de facto California government who possesses ***NO*** honor whatsoever.

And now the '***coop de grass***', which cogently and compellingly underscores the ***FACT*** that attorneys and 'judges' do ***NOT*** care about their victims and their rights and do ***NOT*** think that they have to care – ***WRONGO***, as will soon be demonstrated:

> ***Any other pro se document offered in an appeal "will be returned unfiled" (ibid.), or, if mistakenly filed, will be stricken from the docket*** (??? – ed)

(This citation is listed as being from ***Mattson*** in ***In Re Barnette 31 Cal. 4th 466***, but therein is cited as being from ***Mattson***, but in ***ANY*** event there is ***NO*** citation to ***ANY*** written authority in this area, just as though 'state' ***BAR ASS***ociation attorneys, in whatever capacity, "can make the law up as they go along" ?!?

Happily ***Mattson, Barnette, Barfetta*** et al are ***easily*** distinguishable from the instant case as all such decisions emanate from Section 1 of the ***NON***-existent 14th ***war*** "amendment" and address matters concerned with, as it were, the alleged "merits" of all such cases, where here the focus is on a knowledgeable, prepared and diligent victim of the "***Justice System***" to present ***UNOPPOSED Constitutional, structural, jurisdictional*** issues of the first order which affect not only the instant case, but those of ***ALL*** like situated victims as well.

In addition, Petitioner specifically reserves the right, readily available in an ***attorney-client*** /aka/ ***Principal*** and ***agent*** relationship, to ***direct*** counsel to serve and file ***ALL*** documents and obtain hearings on all such documents requiring a hearing and call

any and ***ALL*** witnesses Petitioner desires to present ***relevant, admissible*** evidence in his behalf. To this end, Petitioner reserves the RIGHT to serve and file a ***Motion to COMPEL Specific Performance*** of conditionally accepted counsel.

Petitioner might still be effectively denied the 'right' to (***effective*** ?!) assistance of counsel since:

1. The right should even exist in a traffic "court" setting, notwithstanding the fact that these cases seem to be treated as civil matters, for there are at least ***implied*** criminal threats, such as the suspension of the victim's driver's license for one who either "***willfully*** fails to appear" and/or "***willfully*** fails to pay a fine"[1], and alleged authority for the "court" to proceed with a "trial" by declaration and issue an enforceable civil "judgment"[2], which includes the ***summary, ex parte*** civil theft of the victim's property without even any administrative "hearing", let alone ***judicial*** process; the victim could still be arrested, jailed and tried for an alleged "***driving on a suspended license***", which already assumes that the victim is a "person" /aka/ artificial, corporate entity, required to have a license. ***WRONG*** !

   If ever the 'guiding hand' of counsel would be helpful, nay ***essential***, it would be to negotiate the minefield of mayhem in a traffic "court" in order to successfully challenge clearly unconstitutional acts which do ***NOT*** seem to have any remedy. When added to other collateral consequences, such as the victim being terminated from his job for "just cause" in the form of a "voluntary" quit after even a 24 hour absence[3], an all too realistic setting for a victim who has been arrested and is in jail, without bail, the perils are too great for most victims to even think of challenging the "***justice system***".

a. that even assuming arguendo that defense counsel, most particularly the office of the Public Defender, might have at least some knowledge of penal laws and procedure, this is ***NOT*** anywhere close to the expertise required in the instant case, since Petitioner, desiring to present violations of rights secured by ***ALL 6 Articles of the Constitution for the united States {1787-1791} (CuS)***, is in need of counsel trained in Constitutional law in order to make a meaningful and substantive presentation of such issues, noting that what may, or may not, have occurred is simply ***NOT*** relevant since it has been held that "It is unfortunate that a ***murderer*** (!) should go unwhipped of justice, but more unfortunate that a court ***WITHOUT*** jurisdiction should exercise it" (***Tully v US 140 Fed. Rptr. 899***)

3. The right, as apparently construed pursuant to the current jurisprudence of the supreme Court of the united States, emanates from Section 1 of the ***NON***-existent 14th ***war*** "amendment"[4];

4. The right, as apparently construed pursuant to the current jurisprudence of the supreme Court of the united States, applies to the 'states' through the incorporation of the Bill of Rights into the due process clause of the ***NON***-existent 14th ***war*** "amendment"[5];

5. That the Bill of Rights, as construed pursuant to the current jurisprudence of the supreme Court of the united States, does ***NOT*** apply to the States[6];

6. The right, as apparently construed pursuant to the current jurisprudence of the supreme Court of the united States, of assistance of counsel, is limited to a

licensed attorney who is a member of a 'state' ***Bar Ass***ociation[7];

7. The use of a licensed attorney, as construed pursuant to the current jurisprudence of the supreme Court of the united States, will be construed as a "***general***" appearance and thus a "stipulation" to the jurisdiction of the "court" which it could get in no other way; accordingly, the use of an attorney runs the unknown, and ***unknowable***, risk of "stipulating" to jurisdiction; from ***Lloyd v US 23 Fed. 2nd 858***[8]:

> "The government demurred to the pleas and also filed answers, later amended. This court overruled the demurrers to the pleas. Now the government moves to strike out the pleas to the jurisdiction, upon grounds not previously urged, namely, that defendants had appeared generally prior to the filing of the [**3] pleas to the jurisdiction; ***that the pleas themselves contain a general appearance, because entered by attorney***, and because they ask that the indictment be quashed and the case dismissed, in addition to the personal relief properly soughtby the plea; and, finally, that, ***since the pleas were filed, defendants have waived their rights by various acts amounting to general appearance***. ***
>
> It is true that these [*859] defendants, ***by pleading to the charge***, and by demurring and otherwise moving in the action, ***did appear generally***. ***It is also true that the pleas to the jurisdiction are open to objection, in that they ask for other relief than dismissal of the defendants***, namely, that the "criminal proceedings pending against them" be "quashed, dismissed, and held for naught." ***Under ordinary circumstances, defendants would be held to have waived their objection to the jurisdiction***.
>
> One who desires to object to the jurisdiction of the court over his person must appear before the court ***for that purpose only. He must raise only the question of the jurisdiction of the court over his person; if he does more, he has waived his objection***."

8. That the assertion of rights secured by the ***Constitution for the united States {1787-1791}*** by a 'criminally' Accused must be done by a 'belligerent claimant in person'[9];

9. That there has been ***no*** arraignment of Petitioner in which he has been advised of ***at least*** the nature & cause of the accusation(s), and/or apprised of each and every element of the 'crime(s)'[10] which ***must*** be proven for the government to gain a

"conviction", and been advised of the identity of his Accuser(s) for the purpose of being able to invoke the right to subpoena, confront & cross examine them, thus ***NO*** entry of any ***voluntary, knowing and intelligent plea***, with all of these omissions being ***structural, jurisdictional*** errors of a ***highly prejudicial magnitude***, each one grounds for a dismissal of all charges in this case[11];

10. That the 'right' to (***effective*** ??) assistance of counsel ***clearly*** and ***unambiguously*** emanates from Section 1 of the ***NON***-existent 14th ***war*** "amendment", no more plainly apparent that from excerpts from the following all too typical case law crap in this area:

From '***People' v Felder 391 NE 2nd 1274***:

> "Word "counsel" within 6th Amendment guarantee can mean nothing less than a licensed attorney at law." (***there is nothing less than an attorney*** ! – ed)
>
> "A lay person, regardless of his educational qualifications or experiences, is not a constitutionally acceptable substitute for a member of the Bar in the context of the 6th Amendment guarantee." (***everyone else is PRESUMED incompetent*** ! – ed)

From '***People' v Washington 394 NYS 2nd 691***:

> "Defendant's constitutional right to counsel can only be satisfied by lawyer admitted to practice before the court." (***pro per litigants do not practice we get it right at once*** – ed)

In addition to the ***FACTS*** that the Bill of Rights does ***NOT*** apply to the States and that there was ***NO*** ratification of the ***NON***-existent 14th ***war*** "amendment" anywhere ***remotely resembling*** consistency with ***Article V***, such condescending case law decisions are not only easily distinguishable from the instant case, they are 'based', as it were, on the popular misconception of the purpose of the "amendment", foisted off on the public at large during the ratification process, that it was to benefit the recently liberated slave population, for whom, at the time, there could be the very reasonable factual foundation and

legal basis to conclude that their illiteracy would be justification for such assistance, which would be an ***alarmingly anomalous fiction of law*** if applied to lawful de jure, ***jus sanguinis*** State Citizens, who form the sovereign body politic of the Nation and Republic and ordained and established all government to "secure the blessing of liberty to ourselves and ***Our*** posterity" -- see e.g. ***Powell v Alabama 287 US 45*** for just this type of application of the 'right' to counsel.

For the same reason, the "limitation" of "counsel" to licensed members of the 'state' ***Bar Ass***ociation is at least understandable, if no less unconstitutional, since this provides a great stride toward the hegemony over the "unauthorized practice of law" which the ***malevolent monopolies*** have given to Bar associations.

A short note: there is ***NO*** mention of membership in any ***BAR ASS***ociation, let alone being an attorney, in any provision of the ***Constitution for the united States {1787-1791}***, as a requirement to be appointed as a Justice to the supreme Court of the united States, which immediately makes suspect, on the ground of ***at least irreconcilable conflict(s) of interest***, of the involvement of any ***Bar Ass***ociation, let alone the ABA, in the appointment and/or confirmation process of anyone to the supreme Court.

This analysis fits beautifully in opposition to the condescending contention about the ***presumed "incompetence"*** of ***ANY*** (?!?) 'layman' to offer assistance to ***at least*** those accused of 'crime(s)' by the (***de facto national socialist***) government; upon a moment's serious reflection, the true agenda ***conspicuously*** stands out: that at least those in the 'shadow' government behind the ***perceived*** government, in the immediate environs of 120 Broadway, NY, NY, Cambridge, New Haven et al cannot afford to take a chance that any of the ***real*** issues has a

prayer of being 'properly' presented to either an inflamed Jury and/or to the Justices of the supreme Court, with the latter having their sanctimoniously self-declared duty to "say what the law is" (***Marbury***), since a favorable decision on such ***unopposed*** issue(s) would be a great stride in the restoration of the ***federative, republican*** form of government of ***defined and limited*** powers ordained and established by "***We the People***".

11. The right to trial by jury, as apparently construed pursuant to the current jurisprudence of the supreme Court of the united States, does ***NOT*** exist in ***at least*** a 'criminal' misdemeanor case[12];

12. That there is ***NO*** right to appeal in ***ANY*** criminal case, as construed pursuant to the current jurisprudence of the supreme Court of the united States[13];

13. There is ***NO*** right to the ***statutory*** Writ of Habeas Corpus, pursuant to the current jurisprudence of the supreme Court of the united States, with even ***actual*** (!) innocence not providing grounds for its issuance[14];

14. Thus reduced to a "court trial", Petitioner is confronted by the spectre of being utterly dependent on a civil magistrate, a ***supposedly*** neutral fact finder, as is ostensibly required[15], who has ***unfettered*** discretion, in concert with seemingly absolute 'judicial' immunity, to rule on the facts and the law[16], this without any appearance by a government prosecutor and ***NO*** opposition to Petitioner's pleadings, most particularly with regard to the "credibility" of witnesses and with cops seemingly enjoying a ***premeditated*** bias in their favor, a situation which would be unlikely to occur in a jury trial, particularly these days with the spate of murders by cops across the country, and with cops also 'enjoying' virtually

absolute immunity for ***any and all perjury*** they might commit in a "trial"[17];

15. Indeed, the current practice in this "court" is to not even bother to administer an oath to testifying cops, with them not even having to take the witness stand, and this might well account, in whole or in significant part, for the situations set forth in Item 12, supra;

16. And without any appearance by a prosecutor, it certainly seems like a cop, even ***IF*** otherwise a member of the 'state' ***Bar Ass***ociation, who in effect prosecutes the case, is practicing law without a license in plain violation of Sec. 6125 of the California Business & Professions Code, or the equivalent thereof;

17. And with cops having ***NOT*** received any apparent training in the scope of their duties, most particularly regarding the enforcement of statutory 'crimes' provisions, they cannot offer any ***relevant, admissible*** evidence against an Accused, let alone sufficient evidence to sustain any "conviction", a plain violation of at least due process[18];

18. That in any event, licensed members of the 'state' Bar Association are officers of the court, and owe it, and their government 'creators', their primary, if not ***SOLE*** allegiance, and will ***NOT*** present any issues, most particularly those related to jurisdiction and venue, which Petitioner wants to present, and has every right to present[19], and with good reason to wonder if law school graduates are even aware of, let alone familiar with, these issues;

19. In addition, licensed members of the 'state' Bar Association also have multiple ***irreconcilable conflicts of interest*** with potential clients, particularly those who are lawful de jure, jus sanguinis State Citizens ***not*** "owing" their Citizenship to

Sec. 1 of the ***NON***-existent 14th ***war*** "amendment"[20], since such clients would:

a. want to present issues which could very easily, and accurately, be seen as ***direct threats*** to the ***malignant malevolent monopoly*** on the "practice of law", which could end such monopoly[21]; and

b. with the concomitant restoration of the status of State Citizens and the recognition of their ***Creator endowed inalienable rights*** would come the loss of the "citizenship" of those who not only made a '***voluntary, knowing*** and ***intelligent***' acceptance of the "benefit" of "***birthright shitizenship***" emanating from the ***NON***-existent 14th ***war*** "amendment", but ***actively engaged in acts of treason*** pursuant to their giving aid & comfort to those whose agenda is to overthrow the Constitution and government of the united States, for which acts a summary loss of such "citizenship" is fully justified, as is the relegation to the condition of ***statelessness*** which would also ensue;

c. that it has come to the attention of Petitioner that the California supreme court and Assembly has effectively conceded that California is ***NOT*** a State admitted into "***this Union***" as ***required*** by at least ***Article IV, Section 3*** of the ***Constitution for the united States {1787-1791}*** (see ***77*** page ***Supplementary Brief on the Admission of New States***, digital copy cheerfully available upon request), with the following collateral consequences:

1. That California has been relegated to, at best, a provisional State[22], albeit with ***no known official acknowledgment*** of this change in status, or, in the alternative, to the condition of a federal (***insular*** ?) territorial possession, similarly not publicly announced;

2. That members of the 'state' ***Bar Ass***ociation are thus ***required*** to be appointed by the President pursuant to the '***Appointments Clause***', (***Article II, Section 2, Para. 2***), yet none of the members have been so appointed;

a. and this is true a fortiori since members of the 'state' ***Bar Ass***ociation are the only ones "qualified" to hold certain offices in the ***de facto*** government such as Attorney General, "judge", ***county counsel***, district attorney, and the like[23], and whose members are routinely charged with the execution of the laws of the United States and the purported state of California;

b. that even the ***NON***-statutory federal Writ of Habeas Corpus has been suspended, perhaps ***in perpetuity***;

c. that the judicial Courts, assuming arguendo that any such still exist, have been closed, and in like manner, yet there is ***no known declared state of war, or even rebellion or invasion***, which ***might*** justify even any temporary such acts[24]

20. That while Petitioner clearly has the right of ***unlimited*** power to contract secured by both the ***Constitution for the united States {1787-1791}*** and the California Constitution (1849)[25], not to mention ***presumptions of innocence and competence***, the "court", here in the guise of a civil magistrate, will ***NOT*** 'permit' anyone but a licensed attorney and member of the 'state' Bar Association, not

coincidentally one of the Commissar's lodge brothers & comrades in arms, to cross the sacrosanct bar, thus assuring that ***NOBODY*** who knows the law will have the opportunity to be heard in open "court";

21. And this is true even when such counsel duly notes that he is acting at the request of Petitioner and in the capacity of a ***Private Attorney General***, a status recognized by federal law[26] which ***summarily preempts*** and supersedes any allegedly applicable 'state' authority to the contrary[27];

22. That all of the above show clearly that the traffic "court" and DMV do nothing but penalize, without authority, or any apparent limits, those who dare to challenge their hegemony by having the knowledge and integrity to attempt to invoke ***rights secured by the Constitution for the united States {1787-1791}***;

Accordingly, the Accused is ***NOT*** 'ready' to go to "trial" in the instant case, not because he does not want to participate, but because he has been denied ***effective*** assistance of counsel for the reasons hereinabove set forth, and has ***no way*** to put on any ***meaningful & substantive*** defense in the trial "court", and ***NO known remedies*** for any errors or omissions as might, and almost certainly will, be committed by the "judge".

Important to note that even if such a "trial" should occur, at least the ***perceived*** state of the law is such that:

a. Petitioner will not be able to address the "merits" of the case and/or present any moving papers, as these acts, separately or in concert, would be a general appearance and a "stipulation" to the jurisdiction of the "court", one acting ***coram non judice***;

b. that Petitioner could ***NOT*** suffer any loss of liberty pursuant to any "conviction" where he was not 'represented' by counsel[28], in the form of a 'state' Bar Association licensed attorney; even being very desirous of the "guiding hand of counsel", Petitioner cannot accept this 'benefit' for reasons cited, supra;

c. The important point here is to distinguish this claim, one which does ***NOT*** emanate from Sec. 1 of the ***NON***-existent 14th ***war*** "amendment"; rather, Petitioner relies on the fact that such a "trial", inherently containing many, if not all, of the constitutional violations as hereinabove set forth, would be a ***Bill of Attainder***[29] and thus ***null and void nunc pro tunc ab initio***;

d. in the alternative, Petitioner, as an ***inhabitant of a territory***, relies upon rights secured by ***Article II*** of the ***Northwest Ordinance of 1787***, as amended and adopted by the First Congress, none of these rights being anywhere in sight in a criminal "court";

e. while noting that attempts to invoke this shield from incarceration have failed in the supreme Court of the united States, most notably in the case of ***Scott v Illinois 440 US 367***, counsel has advised Petitioner that everything

said in ***Argersinger***, infra, and by the ***Scott*** dissenters, applies a fortiori in this case, but not for the same reasons;

f. the majority in ***Scott*** goes immediately off the track by rejecting the claim that:

> The petitioner argues that a line of this Court's cases culminating in ***Argersinger v. Hamlin***, supra, requires state provision of counsel whenever imprisonment is an authorized penalty.

The difference in the instant case is that the "court" will be proceeding in the ***absence of all jurisdiction***, a far more serious scenario[30] than one involving a "person" who "owes" his "citizenship" to Section 1 of the ***NON***-existent 14th ***war*** "amendment"; one is left to wonder here just how a victim of this hoax would ***not*** have the right to ***effective*** assistance of counsel to raise such jurisdictional issues;

g. continuing its jaundiced journey through Petitioner's claims emanating from Section 1 of the ***NON***-existent 14th ***war*** "amendment", the ***Scott*** majority noted that:

> "The Supreme Court of Illinois went on to state that it was "not inclined to extend ***Argersinger***" to the case where a defendant is charged with a ***statutory*** offense for which imprisonment upon conviction is authorized but ***not actually imposed*** upon the defendant. 68 Ill. 2d 269, 272, 369 N.E. 2d 881, 882 (1977). We agree with the Supreme Court of Illinois that the Federal Constitution does ***not*** require a state trial court to appoint counsel for a criminal defendant such as petitioner, and we therefore affirm its judgment.

With multiple ***structural, jurisdictional*** objections to present, but having no known way to do so ***without any substantive education*** in the ***mandatory*** public "education" system, it stands clear of doubt that there ***would*** be a right to ***effective*** assistance of counsel in these forlorn circumstances,

though a better outcome, and one seemingly ***mandated*** by the ***Constitution for the united States {1787-1791}***, would be a sua sponte dismissal ***on the record*** with prejudice of all charges against an Accused, but this has ***never*** been known to happen;

h. the ***Scott*** charade continues when the majority opines that:

> "The run of misdemeanors will not be affected by today's ruling. But in those that end up in the actual deprivation of a person's liberty, the accused will receive the benefit of `the guiding hand of counsel' so necessary where one's liberty is in jeopardy."

The blithe failure to make any distinction between actual and constructive custody thus ignores the realities that an Accused sentenced to jail for less than 90 days is saddled with a quasi-criminal 'conviction' by a "court" which did ***NOT*** have jurisdiction, followed by a host of collateral consequences pursuant to a likely termination for "cause" which will be sustained, perhaps summarily, in whatever forum an Accused might have a remedy, the victim's prospects for the use of his property in the form of his time & labor, are likely to be ***very*** negatively affected, most particularly when compared to records of job Applicants who do not have any 'criminal' record, a bizarre reversal of fortune where those who know the law and attempt to invoke their rights are penalized, while the blasé bleaters who have no visible self-motivation, are "rewarded" for their unquestioning, ***serpentine, sphincteresque sycophantic servitude***.

This is nothing more than the de facto satraps reaping the "benefits" of their pattern & practice of creating an army of consumers, those willing to accept

whatever meager "benefits" they are ***privileged*** to receive, in exchange for the perpetual shackles of slavery for themselves and their posterity, let alone the pervasive, pernicious plundering of producers in strict adherence to the Marxian mantra of "from each according to his ability, to each according to his (government defined ?!?) needs"[31].

i. of course the majority in ***Scott*** were right on to observe that:

> "There is considerable doubt that the Sixth Amendment itself, as originally drafted by the Framers of the Bill of Rights, contemplated any guarantee other than the right of an accused in a criminal prosecution in a ***federal*** court to employ a lawyer to assist in his defense."

Most particularly in view of the fact that the Bill of Rights was ***NOT*** designed to be applied to the States[32], and has not held to be so applied, this by as eminent an authority as can be cited: that infallible icon of Cambridge & New Haven, Chief Justice John Marshall, who apparently had a better pedigree for perfection than the Pope in Vatican City;

j. continuing this onerous onslaught of opprobrium, which is intimately associated with collectivist government, the opinion goes on to incorporate, verbatim, an excerpt from the case of ***Powell v Alabama 287 US 45***, which digs an even deeper hole for the de facto dragoons:

> "The United States by statute and every state in the Union by express provision of law, or by the determination of its courts, make it the duty of the trial judge, where the accused is unable to employ counsel, to appoint counsel for him."

To be sure, given the facts in this unfortunate case, the assumption that the defendants were ***NOT*** competent to present their own cases had a factual

foundation and legal basis; where, however, can we find any such authority in the ***original intent*** of the Framers of the ***Constitution for the united States {1787-1791}*** about members of the sovereign body politic of the Nation & Republic /aka/ members of "***Our*** posterity" by whom and for whom all government was ordained and established to 'secure the blessings of liberty to ourselves and ***Our*** posterity' ???

And if we are, in fact, ***NOT*** competent to present our own case in our own Court, how could we possibly have been competent to ordain & establish ***ALL*** government, and/or ***be competent to vote on "Election" day*** ???

k. that both sides relied on the following excerpt in the case of ***Duncan v Louisiana 391 US 145*** to reach the conclusion that:

"that the right to jury trial was the only Sixth Amendment right applicable to the States that had been held inapplicable to "petty offenses";[5] that this limitation had been based on historical considerations peculiar to the right to jury trial;[6] and that the right to counsel was more fundamentally related to the fairness of criminal prosecutions than the right to jury trial and was in fact essential to the meaningful exercise of other Sixth Amendment protections."

What ***isn't*** so clear are answers to the following questions:

1. How ***ALL*** Americans have been subjected to either a commercial and/or ***martial law*** jurisdiction which is so complicated as to make the use of 'state' ***Bar Ass***ociation licensed attorneys virtually essential in all cases, which 'conveniently' reinforces their ***malodorous, malevolent monopoly*** on the "practice of law";

2. Why at least the basics of this system are ***NOT*** taught in the ***mandatory*** public "education" system, with there being ***no known meaningful and substantive curricula*** for the study of the Constitution, history and laws of the united States';

3. Where one can find any "***voluntary, knowing and intelligent***" waiver of rights such as the right to the ***NON***-statutory Writ of Habeas Corpus, the right to ***judicial*** process and the right to trial by jury according to the course of the common law, all of which are even secured to the "inhabitants of territories"[33];

23. perhaps as troubling in the analysis of ***Argersinger*** and ***Scott*** is the ***implied*** conclusion of both sides that 'criminal' fines, in whatever amount, and without apparent limit, are ***NOT*** matters which concern the administration of the criminal "***justice system***", and this applies to fines, fees, charges (such as a dismissal (!?) fee levied in the seemingly ***unfettered*** discretion of public officials, and one who might well ***NOT*** be in lawful possessions of their offices of ***honor***, profit & ***trust*** in government[34];
And many of these impositions could be made as a result of a "trial by declaration", "trial in absentia", and/or for an alleged "willful failure to appear and/or pay the fine(s)", when all an Accused was "guilty" of doing was making a ***timely*** invocation of ***rights secured by the Constitution for the united States {1787-1791}***[35], or, in the latter case, with it being impossible to pay fines, fees, etc.[36].

In conclusion, it should be ***carefully*** noted that the challenges here are as much to the qualifications of those ***purportedly*** in power as to the powers being exercised, as set forth in Petitioner's other documents in this case.

CONDITIONAL ACCEPTANCE OF LICENSED ATTORNEY

As it happens in certain jurisdictions, the territory of South Carolina for a ***known*** fact, that there are ***secret*** 'courts' with ***hidden*** protocols, most particularly in the vital area of Law & Motion practice, the Accused, most particularly if falsely arrested and imprisoned, and never having attended any law school, would have no way to know this or be able to discover it, even assuming arguendo there existed adequate legal research tools in the jail.

Accordingly, with an established right to be heard (see ***McVeigh, Shepard Fn 29***, infra), most especially to present ***Constitutional, structural, jurisdictional*** errors which can be raised at ***any time***, it can, and will, be argued by the Accused that there is a right to ***effective*** assistance of counsel pursuant to this right, which attaches at the outset of the case, probably starting out with the filing of a ***Demand for a Bill of Particulars*** by counsel, since the Accused has ***NO*** other ***apparent*** option for invoking ***rights secured by the Constitution for the united States {1787-1791}***.

And in seemingly ***ALL*** jurisdictions across the country where the provisions of the ***NON***-existent 14th ***war*** "amendment" are routinely and unlawfully, not to mention ***treasonously***, employed, licensed 'state' ***Bar Ass***ociation attorneys have the ***ONLY***

known, recognized status to appear and represent ***ANY*** victim accused ot committing one or another statutory commercial 'crime', thus all 'official' actors in at least the ***purported*** judicial department of such governments go to ***GREAT*** lengths, as can be readily established by a daunting amount of ***relevant, admissible documentary evidence*** which will be cheerfully presented on request, to be certain that ***NONE*** of theu ***UNOPPOSED constitutional, structural, jurisdictional*** /aka/ to those in positions of ***honor***, profit and ***trust*** in the de facto "***Justice system***" as "***specious, frivolous***", issues presented in the instant case have no chance in hell of getting ***ON THE RECORD*** and thus finally presenting an ***Article III 'case or controversy'*** for the '***9 Old Farts***' /aka/ the US supreme Court, to decide and finally discharge its ***sanctimoniously self-promulgated*** duty to "say what the law ***IS***" (***Marbury v Madison 1 Cranch. 137***).

Accordingly, Petitioner makes a ***conditional*** acceptance of counsel ***IF*** and only if counsel is ***ordered*** to serve and ***FILE*** all of the documents presented by Petitioner and have hearing dates set on ***ALL*** such documents requiring a hearing, and calling any and all witnesses as directed by Petitioner, in order that rulings on the merits of the issues presented can be made ***ON THE RECORD***.

And such ***conditional*** acceptance does ***NOT*** include accepting the 'politically correct' premise that an attorney, by appearing as an officer of the 'court', makes a ***GENERAL*** appearance and is thus a "***stipulation***" (?!?) to the jurisdiction of the trial 'court' which it could get in ***NO*** other way.

without prejudice UCC1-308-207

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Footnotes

1 -- Vehicle Code Section 40508a

2 -- Vehicle Code Section 40903

3 -- see e.g. Section 1256 of the Unemployment Code which 'authorizes', if not mandates, a "finding" of a "voluntary quit", and disqualification for "benefits" if the victim has a "no call no show" at work for a 24 (!) hour period; almost worse, any subordinate, sycophantic satrap who makes such a "finding", ostensibly "consistent" with the legislative intent, will have at least qualified, ***if not absolute, immunity*** for any and all damages incurred by a victim as a result of his acts or omissions;

4 -- see e.g. ***Gideon v Wainwright 372 US 335***; ***Escobedo v Illinois 378 US 478*** ad nauseam; a ***far*** better view was stated by the Court in ***Betts v Brady 316 US 455***;

5 - see e.g. ***Mapp v Ohio 347 US 641***;

6 -- see e.g. ***Barron v Baltimore 7 Peters 243; Twining v New Jersey 211 US 78; Hurtado v California 110 US 516; Adamson v California 332 US 46***;

7 -- see e.g. ***Konigsberg v State Bar 366 US 36; Douglas v California 372 US 353; Johnson v Zerbst 304 US 458***;

8 -- see also ***Ford v US 273 US 495; Pratt v Harris 129 NE 277*** as cited in "***Common Law Pleading***" @ page 386 by Benjamin Shipman

9 -- see e.g. ***US v Johnson 76 FSupp 538***;

10 -- see e.g. ***In Re Winship 397 US 358; Morrisette v US 342 US 246***;

11 -- see e.g. ***Crain v US 162 US 625; People v Corbett 28 Cal. 328***; and these rights are specifically guaranteed by the right to present a Demand for a Bill of Particulars (see e.g. ***Smith v US 776 Fed. 2nd 1104***), and by common sense -- if one does ***not know*** what jurisdiction is being used and the 'applicable' rules thereof, how can an Accused /aka/ victim possibly be able to put on ***ANY*** defense

12 -- see e.g. ***Blanton v Las Vegas 489 US 538***; and there may ***NOT*** be any right to trial by jury in a ***capital*** case, either (***Brown v Mississippi 297 US 278; Snyder v Massachusetts 291 US 97***);

13 -- see ***McKane v Durston 153 US 684***;

14 -- see ***Coleman v Thompson 501 US 722; Mooney v Holohan 294 US 103; McCleskey v Zant 499 US 467***;

15 -- see e.g. ***Tumey v Ohio 273 US 510***;

16 -- see e.g. Article VI, Section 13 of the bastardized version of the California Constitution allegedly currently in effect; ***Hans v Louisiana 134 US 1***;

17 -- see e.g. ***Briscoe v LaHue 460 US 325***;

18 -- a much better issue is the denial of judicial process, but see e.g. ***Thompson v Louisville 362 US 199*** anyway;

19 -- see ***Cohens v Virginia 6 Wheat. 264; Martin v Hunters Lessee 1 Wheat. 304***;

20 -- see ***Minor v Happersett 21 Wall. 162; Van Valkenburg v Brown 43 Cal. 43***;

21 -- nowhere is this more graphically illustrated than the recent Appeal Brief in a Merced case, which would have been the ***FIRST*** attempt by a DA to answer any of the phalanx of ***UNOPPOSED*** constitutional, jurisdictional issues presented in the instant case and in ***4 decades*** of Next Friend William Henshall's battles 'in the trenches', ***EXCEPT*** for the fact that this Brief, a boilerplate bureaucratic BS effort, quite possibly created by some legal 'luminary' like Sacramento Shamala Harris, merely relied upon allegedly applicable rules which not only could ***NOT*** possibly be relevant, but would be in opposition to the inherent mandate of the Constitution, as recognized by the US supreme Court of the united States, of "***SUBSTANCE*** over ***form***" and continued with the utterly asinine claim that ***ALL*** of Petitioner's ***UNOPPOSED jurisdictional*** challenges were "denied" by the trial "judge", while 'conveniently omitting that ***ALL*** of these challenges were ***UNOPPOSED*** and yet "denied" by a supposedly neutral magistrate (***Tumey v Ohio 273 US 510***), not surprising at all that one ***sBA*** member would rule summarily in favor of another ***sBA*** brethren, but in conflict with the doctrine of ***separation of powers*** which ***would*** exist in a State judicial court of common law general jurisdiction, but are nowhere in evidence in a federal (insular) legislative tribunal (this Brief, and Petitioner's Appeal Brief, will be cheerfully provided on serious request, noting that the ***D***umb ***A***ss' Brief did ***NOT*** contain ***ANY*** decisions of the US supreme Court, but Petitioner's Brief has ***29*** (!) such decisions !

22 -- even this situation would ***NOT*** 'help' the government here, for a ***provisional*** State would be completely subject to the ***unfettered*** discretion of the President, acting as ***Commander-in-Chief of the Armed Forces***, seemingly ***exactly*** the situation which exists today, particularly in view of the expanded role of the President in issuing ***Executive Orders***, which would have the power to summarily terminate "birthright citizenship" of the ***NON***-existent 14th ***war*** "amendment", especially on subjects which appear to be the sole province of Congress, such as immigration and citizenship, and/or in areas where there is ***NO*** constitutional pedigree for the ***DNSG*** to act at all, such as 'mandating' transgender bathrooms; furthermore, the existence of a provisional 'state' would seem to have a lot in common with an expectant mother -- one can neither be half pregnant nor be a half-state; ***what powers would a provisional state retain and which powers would be usurped, what is the factual foundation and legal basis for any such determinations,***

and which constitutional officer is charged with the authority to make them ?

23 -- pursuant to Article VI, Sections 9 & 15 of the bastardized California Constitution allegedly currently in effect;

24 -- plain violations of ***at least Article I, Section 9, Cl. 2 of the Constitution of the united States {1787-1791}*** and/or Article I, Sections 5 & 12 of the California Constitution (1849);

25 -- see e.g. ***Hale v Henkel 201 US 43,74***; and this right is specifically secured by ***at least Article I, Section 9 or 10***, as the case may be, of the ***Constitution for the united States {1787-1791}*** and the ***9th Article of Amendment***, and/or Article I, Sections 3,5,8,16 and 21 of the California Constitution (1849);

26 -- ***Section 35*** of the ***Judiciary Act of 1789, 1 Statutes at Large 73***;

27 -- ***Article VI, Section 2*** of the ***Constitution for the united States {1787-1791}***; see also ***San Diego Unions v Garmon 359 US 236***;

28 -- see e.g. ***Argersinger v Hamlin 407 US 25,40***;

29 -- see e.g. ***Cummings v Missouri 4 Wall. 277***;

30 -- see e.g. ***Tully v US 140 Fed. Reporter 899; US v Shepard 27 Fed. Cases 1056; Windsor v McVeigh 93 US 274***, the opinions in the latter cases being incorporated by reference as though fully set forth herein; in ***Tully***, a case from an earlier era in which ***words meant things***, the judge cogently and compelling held that:

"It is unfortunate that a ***murderer*** (!) should go unwhipped of justice, but more unfortunate yet if a court ***without*** jurisdiction should attempt to exercise it."

31 -- nowhere more graphically illustrated than the decision of the Court in ***Enochs v Williams 370 US 1***, where it was held that "taxpayers", by any purported definition, had ***NO*** right to even an administrative hearing, not to mention judicial process, ***before*** they could be taxed ***OUT OF EXISTENCE***; compare the careful, albeit crafty, coddling of consumers in ~~***Goldbrick***~~ ***Goldberg v Kelly 397 US 254***, in which welfare recipients were held to have a 'due process right' to a pre-deprivation hearing pursuant to loss or reduction in "benefits" …

32 -- see ***Barron***, supra; ***Preamble to the Bill of Rights***;

33 -- see ***Article II*** of the ***Northwest Ordinance of 1787***;

34 -- as it turns out, quite 'conveniently' for the de facto usurpers, the erstwhile common law Writ of Quo Warranto is under the ***complete control*** of the ***unfettered*** discretion of the ***territorial*** Attorney General, an officer having ***irreconcilable conflicts of interest with members of the sovereign body politic of the Nation & Republic***, thus eliminating yet another remedy /aka/ check and balance on the powers of government;

35 -- yet the supreme Court has held, albeit in the context of 14th ***war*** "amendment" due process, in ***Miranda v Arizona 384 US 436,491***, that:

> "***Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.***"

36 -- this 'courtesy' of the bankruptcy of the United States declared by Congress (***48 Statutes at Large 112***); have we ***ALL*** become "hypothecators of goods or stipulators in the ***admiralty***" (***Bank of Columbia v Okely 4 Wheat 235***), a jurisdiction foreign to our Constitution and unacknowledged by our laws" ?? see also ***Guaranty Trust v Henwood 307 US 247***;

Certificate Of Service

I Xaiviar from the family Brown hereby certify that on 17 th day of October ,2021 the foregoing document , named , Notice Of Conditional Acceptance of Counsel and Potential Lack of ability to proceed with "trial" without assistance of counsel filed in the court of the UNITED STATED DISTRIC COURT ,EASTERN DISTRIC OF MISSOURI, EASTERN DIVISION and a copy was mailed out by (USPS. Certified) mail to Linda R. Lane at 111 South 10th St., Saint Louis ,Mo. 63102 on the record.

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